

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff

DECISION and ORDER

-VS-

12-CR-6018

JOSEPH SCHMIDT

Defendant

This case was referred by order of the undersigned, entered February 13, 2012¹ to Magistrate Judge Jonathan W. Feldman, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On March 30, 2012, Defendant filed an omnibus motion, ECF No. 11, 12, seeking *inter alia* suppression of evidence seized pursuant to five separate search warrants as follows: an Forward Looking Infrared Equipment [“FLIR”] search warrant for 598 Culver Road; and FLIR search warrant for 48 Crystal Valley Overlook; a subsequent warrant 598 Culver Road; a subsequent search warrant for 48 Crystal Valley Overlook; and a search warrant for Defendant’s Blackberry cellular telephone. On July 9, 2012, Magistrate Judge Feldman filed a Report and Recommendation (“R&R”), ECF No. 19, recommending that the defendant’s motion to suppress evidence relating to each of the search warrants at issue be denied. Defendant timely filed objections to the R & R on August 3, 2012, ECF No. 21, arguing that “the Court reject the Magistrate Judge’s R & R and suppress the tangible evidence on the ground that the Search Warrant Applications were so lacking in *indicia* of probable cause as to render belief in its existence entirely unreasonable , thereby barring application of the good faith

¹Inadvertently a ECF docket number was not assigned by the Clerk’s Office to this event.

exception to the exclusionary rule.” Objections to Magistrate Judge’s R&R of July 9, 2012, p.1.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R & R to which objections have been made. Upon a *de novo* review of the R & R, including a review of the search warrants and applications at issue, Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Feldman’s R & R, ECF No. 19, defendant’s applications, ECF No. 11,12, to suppress evidence relating to the five search warrants as detailed above are denied.

IT IS SO ORDERED.

Dated: Rochester, New York
August 24, 2012

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge